

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

William Creech,	)	C/A No.: 3:11-1742-MBS-SVH
	)	
Plaintiff,	)	
	)	
vs.	)	REPORT AND RECOMMENDATION
	)	
Washington Savannah River Company,	)	
LLC,	)	
	)	
Defendant.	)	
	)	

---

This matter is before the court on Defendant's motion to dismiss for failure to prosecute [Entry #31]. All pretrial proceedings in this case were referred to the undersigned pursuant to the provisions of 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2)(d) (D.S.C.). Because this is a dispositive motion, this report and recommendation is entered for review by the district judge.

On January 26, 2012, the parties moved to stay the Scheduling Order dated September 30, 2011, pending "resolution of questions as to whether settlement has been reached in this matter and whether Plaintiff will retain current counsel." [Entry #31 at 1]. The court granted the motion to stay and ordered that the parties file a status report on or before February 27, 2012. Defendants filed the instant motion to dismiss in lieu of a status report.

According to Defendant's motion, the parties agreed, through their counsel, to the basic terms of possible settlement on or around December 6, 2011. [Entry #31 at 2]. Defendant further alleges that Plaintiff has made no attempts to prosecute this case since

that time. *Id.* The motion also states that Plaintiff's counsel previously affirmed that Plaintiff does not intend to continue to pursue this case, and that he neither consents nor opposes the motion to dismiss. Plaintiff did not file a response to the motion to dismiss. As such, it appears to the court that he does not oppose the motion and wishes to abandon this action. Based on the foregoing, the undersigned recommends this action be dismissed with prejudice for failure to prosecute. *See Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b).

IT IS SO RECOMMENDED.

A handwritten signature in black ink, reading "Shiva V. Hodges". The signature is written in a cursive, flowing style.

March 16, 2012  
Columbia, South Carolina

Shiva V. Hodges  
United States Magistrate Judge